

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JAMES R.) APPEAL NO. 07-A-2519
RUSSELL, JR. from the decision of the Board of)
Equalization of Bonner County for tax year 2007.) FINAL DECISION
) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing November 6, 2007, in Sandpoint, Idaho before Hearing Officer Steven L. Wallace. Board Members Lyle R. Cobbs, David E. Kinghorn, and Linda S. Pike participated in this decision. Appellant James R. Russell, Jr. appeared for himself. Assessor Jerry Clemons, Residential Appraisal Supervisor Jeri Peterson, and Appraiser Colleen Bunn appeared for Respondent Bonner County. This appeal is taken from a decision of the Bonner County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RP00424000001BA.

The issue on appeal is the market value of a residential property, specifically the value attributable to land.

The decision of the Bonner County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$460,000, the improvements' valuation is \$140,659, and other valuation is \$18,842, totaling \$619,501. Appellant requests the land value be reduced to \$410,000, the improvements' value remain at \$140,659, and other valuation remain at \$18,842, for a total reduced valuation of \$569,501.

Subject is a .378 acre lot fronting Lake Pend Oreille, located in Sagle, Idaho. Subject has 100 front feet with residential and other improvements. Subject's land value is the sole issue on appeal here. Subject's land value was reduced by the Bonner County BOE from \$471,500 to \$460,000.

Appellant challenged subject's value on the basis of inequitable assessment. It was noted lots in subject's subdivision (Shields) were assessed \$4,600 per front foot on average, whereas lots in the adjacent subdivision (Shaefer) were assessed approximately \$4,100 per front foot. Appellant provided eighteen (18) lot assessments from Shaefer subdivision and five (5) from Shields. The Shaefer lots had between 50 and 135 front feet and the Shields lots (including subject) all had 100 front feet. Appellant contended there were no notable differences in waterfront or other features between the two subdivisions, so argued the lots should be assessed at the same front foot rate.

Respondent presented five (5) bare lot sales that occurred during 2006 to support subject's land assessment. The lots ranged between 100 and 180 front feet and sold between \$2,626 and \$8,500 per front foot. Sale C was considered to be the most similar to subject because it was located within one mile and had similar waterfrontage. The lot contained 180 front feet and sold for \$550,000, or \$3,056 per front foot. Sales A and B were considered inferior to subject for various reasons. The lots sold for \$3,713 and \$2,626 per front foot, respectively. Lots D and E were regarded as superior to subject, primarily on account of their close proximity to Sandpoint (nearly 8 miles from subject). The parcels sold for \$8,500 and \$7,490 per front foot, respectively.

Respondent noted parcels within Shields subdivision were uniformly assessed. Respondent stated subdivisions are analyzed individually for assessment purposes and speculated the difference in front foot rates likely resulted from the Shields subdivision being trended differently than Shaefer subdivision. Respondent conceded waterfront features of the two subdivisions were essentially the same.

Appellant challenged Respondent's sales primarily on the basis they were not proximate

to subject, with the exception of Sale C. Regarding Sale C, Appellant noted the \$3,056 per front foot sale price and argued it supported a reduction in subject's value. Respondent, on the other hand, pointed to the 180 front feet Sale C had and contended "the law of diminishing returns" dictated that as the front footage increases, the price per front foot decreases. As such, Respondent argued Sale C should properly have a lower front foot rate than subject because it had 80 more front feet.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For the purposes of taxation, Idaho requires property to be assessed at market value, as defined in Idaho Code § 63-201 (10):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant challenged Respondent's sales on the basis they were neither comparable, nor proximate to subject. Appellant's point is evidenced by the fact that Respondent's five (5) sales range in price between \$2,626 and \$8,500 per front foot. Respondent contended the price range was the result of some of the sale lots having more front feet, and thus a lower price-per-front-foot. Evidence presented in this case, suggests the wide value range has more to do with the location of the sale parcels, rather than the amount of front feet. To illustrate this, we need to

look no further than Sale A and Sale D. Sale A had 100 front feet and sold for \$2,626 per front foot. Sale D had 100 front feet and sold for \$8,500 per front foot. Respondent explained Sale D was located near Sandpoint, where prices are generally higher, while Sale B was located some distance away from town. Sale D was considered to have superior beachfront, however, this was the only difference noted, other than location. Clearly the amount of beachfront is not the only contributing value factor.

Appellant's primary argument is subject's subdivision was assessed differently than the adjacent Shaefer subdivision. It is not uncommon to see one subdivision valued higher than another, however, the difference typically results from one subdivision being superior to the other; such as better views, superior beach access, new construction, better amenities, etc. Such is not the case here between Shields and the adjacent Shaefer subdivision. Both parties agree there are no discernable differences between the subdivisions. This naturally begs the question why lots in subject's subdivision were valued approximately \$500 more per front foot than lots in Shaefer subdivision. Respondent speculated the difference likely resulted from the subdivisions being trended differently. Nothing else was offered to explain the variance.

The dominant principle of our constitutional mandate is that property shall be assessed for taxation under uniform rules so that equality in the burden of taxation results. Yet practical problems in the administration of a taxing system always remain; absolute or perfect equality in taxation, being impossible of attainment, is not required. As long as there is substantial uniformity in the application of tax statutes, constitutional provisions relating to equality and uniformity are not violated. *Xerox Corp. v. Ada County Assessor*, 101 Idaho 138, 142-143, 609 P.2d 1129, 1133-1134 (1980).

The Board accepts the concession from the parties that there are no significant differences between lots in Shields and Shaefer subdivisions. As such, Appellant's contention that subject was inequitably assessed compared to lots in Shaefer subdivision, appears

reasonable.

The Idaho Supreme Court, however, has held, “[w]hile practical uniformity is the constitutional goal, absolute uniformity is an unattainable ideal. Essentially, a revaluation plan is constitutionally lacking in uniformity only if it is arbitrary, capricious, fraudulent, or intentionally discriminatory. . . .” Justus v. Board of Equalization, 101 Idaho 743, 747, 620 P.2d 777, 781 (1980). The Court further held in Anderson's Red & White Store v. Kootenai County, “. . . the courts will not attempt to correct mere mistakes or errors of judgment on the part of the assessor or board of equalization” 70 Idaho 260, 264, 215 P.2d 815, 817 (1950).

The discrepancy in front foot assessment rates between the Shaefer and Shields subdivisions is troubling to this Board, however, the variance does not appear to be the result of intentional discrimination or inconsistent application of tax statutes on the part of the County. Rather, the difference appears to be merely an error or oversight.

Disregarding Appellant’s inequitable assessment claim, subject still appears to be over-valued. Respondent asserted Sale C was the most comparable to subject because of its close proximity and similar beach features. The parcel sold in October 2006 for \$3,056 per front foot. The only notable difference was the property had 180 front feet, while subject had 100 front feet. While economies of scale would naturally suggest a lower value per front foot for a larger lot, the difference in this case is nearly \$1,500 per front foot. To support such a large variance, subject would need to be clearly superior, not simply smaller in size. Such is not the case here, where Respondent argued Sale C had essentially the same characteristics as subject.

Appellant has asked this Board to reduce subject’s value to \$4,100 per front foot. Given the evidence in this case, particularly Respondent’s contention that Sale C is most comparable and best supports subject’s assessment, this Board agrees with Appellant that subject was over-

valued. Appellant's value claim is nearly \$1,100 per front foot above the \$3,056 per front foot sale price of Sale C. Given these facts, Appellant's request seems reasonable and will be accepted by the Board. Accordingly, the decision of the Bonner County Board of Equalization is reversed, lowering subject's land value to \$4,100 per front foot, or \$410,000.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed lowering subject's the assessed land value to \$410,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 3, 2008